

Executive Summary – Enforcement Matter – Case No. 49157

City of San Marcos

RN101416337

Docket No. 2014-1188-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of San Marcos PWS, 630 East Hopkins Street, San Marcos, Hays County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 5, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$345

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$345

Name of SEP: Texas State University-San Marcos (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 49157
City of San Marcos
RN101416337
Docket No. 2014-1188-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 28, 2014 through August 8, 2014

Date(s) of NOE(s): August 15, 2014

Violation Information

Failed to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes ("TTHM") based on the locational running annual average [30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See Attachment A)
2. The Order will also require the Respondent to:
 - a. Within 365 days, return to compliance with the maximum contaminant level for TTHM based on the locational running annual average; and
 - b. Within 380 days, submit written certification to demonstrate compliance with Ordering Provision a.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 49157
City of San Marcos
RN101416337
Docket No. 2014-1188-PWS-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Michaelle Garza, Enforcement Division,
Enforcement Team 2, MC R-13, (210) 403-4076; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: The Honorable Daniel Guerrero, Mayor, City of San Marcos, 630 East
Hopkins Street, San Marcos, Texas 78666

Respondent's Attorney: N/A

Attachment A
Docket Number: 2014-1188-PWS-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of San Marcos
Penalty Amount:	Three Hundred Forty-Five Dollars (\$345)
SEP Offset Amount:	Three Hundred Forty-Five Dollars (\$345)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas State University – San Marcos
Project Name:	<i>Water Quality Monitoring of River Basins and Edwards Aquifer Recharge Zone</i>
Location of SEP:	Colorado River Basin; Edwards Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas State University – San Marcos** for the *Water Quality Monitoring of River Basins and Edwards Aquifer Recharge Zone* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used pay for sampling equipment, including the portable stormwater sampler, Gore bags, and calibration standards kits. The Third-Party Administrator shall also use the SEP Offset Amount for travel expenses up to \$.55 per mile for traveling to the wells and to collect data during storm events. The SEP Offset Amount will also be used for lab analyses of Gore bag samples and field parameters and to pay a portion of the Third-Party’s personnel’s salary for time spent collecting samples and calibrating instruments. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

City of San Marcos
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The continuation of the Trimmier, Witte, and La Coste Stations and the implementation of two new stations will provide valuable data for assessing water quality. Continuous monitoring of these sites will provide the public with knowledge of basic water quality in their watershed. These data will provide useful information in determining baseline conditions, long term trends, and real-time water quality for the area.

The Edwards Aquifer monitoring sites will collect data to measure the water quality of the sensitive area before, during, and after construction of the Paso Robles development and associated golf course. The Project will also monitor the surface runoff following significant rain events to determine the effects of construction activities, the use of effluent, and the application of insecticides and herbicides in the community and golf course. Further, these monitoring sites will identify any contamination of this sensitive recharge area of the Edwards Aquifer Recharge Zone and help prevent possible further introduction of contaminants.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas State University – San Marcos SEP** and shall mail the contribution with a copy of the Agreed Order to:

Dr. Glenn Longley
Texas State University - San Marcos
601 University Drive, JCK 420
San Marcos, Texas 78666

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ.** Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	18-Aug-2014	Screening	19-Aug-2014	EPA Due	30-Sep-2014
	PCW	20-Aug-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	City of San Marcos		
Reg. Ent. Ref. No.	RN101416337		
Facility/Site Region	11-Austin	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	49157	No. of Violations	1
Docket No.	2014-1188-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Michaelle Garza
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$300
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	15.0% Enhancement	Subtotals 2, 3, & 7	\$45
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Notes: Enhancement for three NOVs with the same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$731
Estimated Cost of Compliance: \$5,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$345
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$345
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$345
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$345
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Screening Date 19-Aug-2014

Docket No. 2014-1188-PWS-E

PCW

Respondent City of San Marcos

Policy Revision 4 (April 2014)

Case ID No. 49157

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101416337

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 15%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for three NOVs with the same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 15%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 15%

Screening Date 19-Aug-2014

Docket No. 2014-1188-PWS-E

PCW

Respondent City of San Marcos

Policy Revision 4 (April 2014)

Case ID No. 49157

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101416337

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on the locational running annual average. Specifically, the locational running annual average concentrations for TTHM at Stage 2 Disinfection Byproducts Site No. 4 were 0.087 mg/L for the fourth quarter of 2013, 0.086 mg/L for the first quarter of 2014, and 0.081 mg/L for the second quarter of 2014.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for TTHM has exposed customers of the Facility to significant amounts of contaminants that do not exceed levels protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 1

272 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$300

One annual event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$731

Violation Final Penalty Total \$345

This violation Final Assessed Penalty (adjusted for limits) \$345

Economic Benefit Worksheet

Respondent City of San Marcos
 Case ID No. 49157
 Reg. Ent. Reference No. RN101416337
 Media Public Water Supply
 Violation No. 1

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	31-Dec-2013	1-Feb-2016	2.09	\$35	\$696	\$731
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to implement an alternative form of disinfection, calculated from the last date of the first quarter of noncompliance to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$731

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600521272, RN101416337, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600521272, City of San Marcos **Classification:** SATISFACTORY **Rating:** 6.62

Regulated Entity: RN101416337, CITY OF SAN MARCOS **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 630 EAST HOPKINS STREET, SAN MARCOS, HAYS COUNTY, TEXAS

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1050001

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: August 19, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 19, 2009 to August 19, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Michaelle Garza

Phone: (210) 403-4076

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- | | | |
|---|---|--------------------------|
| 1 | Date: 02/27/2014 (1186026) | |
| | Self Report? NO | Classification: Moderate |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1) | |
| | Description: TTHM MCL 4Q2013 - The system violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2013 with a RAA of .087 mg/L. | |

3	Date: 07/30/2014 (1186026)	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)	
	Description: TTHM MCL 2Q2014 - The system violated the maximum contaminant level for trihalomethanes during the second quarter of 2014 with a RAA of .081 mg/L.	

N/A

N/A

N/A

N/A

N/A

N/A.

Component Appendices

Appendix A

All NOVs Issued During Component Period 8/19/2009 and 8/19/2014

- 1 Date: 08/29/2011 (949183) Classification: Minor
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)
- Description: The City failed to maintain a potable water storage tank such that it is thoroughly tight against leakage. Specifically, a leak was discovered on the standpipe at the Comanche Plant. A small spray of water was observed midway up the side of the tank.
- Classification: Minor
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
- Description: The City failed to maintain a water treatment unit or related appurtenance in a watertight condition. Specifically, a small leak was observed at the Spring Lake Plant on a water line near the point where fluoride is injected into the well discharge line.
- Classification: Minor
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
- Description: The City failed to paint and maintain a potable water storage tank in strict accordance with standards of the American Water Works Association. Specifically, the outer surface of the effluent line for the 1.5 MG storage tank at the Spring Lake Plant was corroded.
- 2 Date: 02/27/2014 (1186026) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
- Description: TTHM MCL 4Q2013 - The system violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2013 with a RAA of .087 mg/L.
- 3 Date: 06/27/2014 (1186026) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
- Description: TTHM MCL 1Q2014 - The system violated the maximum contaminant level for trihalomethanes during the first quarter of 2014 with a RAA of .086 mg/L.
- 4 Date: 07/30/2014 (1186026) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
- Description: TTHM MCL 2Q2014 - The system violated the maximum contaminant level for trihalomethanes during the second quarter of 2014 with a RAA of .081 mg/L.

* NOVs applicable for the Compliance History rating period 9/1/2008 to 8/31/2013

Appendix B

All Investigations Conducted During Component Period August 19, 2009 and August 19, 2014

- (949183)
- Item 1 August 25, 2011** For Informational Purposes Only
- (976147)
- Item 2 January 03, 2012** For Informational Purposes Only
- (1186026)
- Item 3 August 04, 2014 For Informational Purposes Only

(1186278)

Item 4

August 15, 2014

For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2008 and 08/31/2013.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



RECEIVED TCEQ
SAN ANTONIO
REGION
2014 NOV -4 PM 2:33

IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF SAN MARCOS
RN101416337

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2014-1188-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of San Marcos (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 630 East Hopkins Street in San Marcos, Hays County, Texas (the "Facility") that has approximately 27,187 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted from July 28, 2014 through August 8, 2014, TCEQ staff documented that the locational running annual average concentrations for total trihalomethanes ("TTHM") at Stage 2 Disinfection Byproducts Site No. 4 were 0.087 milligrams per liter ("mg/L") for the fourth quarter of 2013, 0.086 mg/L for the first quarter of 2014, and 0.081 mg/L for the second quarter of 2014.
3. The Respondent received notice of the violations on August 19, 2014.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the maximum contaminant level of 0.080 mg/L for TTHM based on the locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Three Hundred Forty-Five Dollars (\$345) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Three Hundred Forty-Five Dollars (\$345) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Three Hundred Forty-Five Dollars (\$345) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of San Marcos, Docket No. 2014-1188-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4 above, Three Hundred Forty-Five Dollars (\$345) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order, return to compliance with the maximum contaminant level for TTHM based on the locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115; and
 - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any

other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

2/6/15
Date


I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of San Marcos. I am authorized to agree to the attached Agreed Order on behalf of the City of San Marcos, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of San Marcos waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

10/29/14
Date

David Guerrero
Name (Printed or typed)
Authorized Representative of
City of San Marcos

Mayor
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2014-1188-PWS-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of San Marcos
Penalty Amount:	Three Hundred Forty-Five Dollars (\$345)
SEP Offset Amount:	Three Hundred Forty-Five Dollars (\$345)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas State University – San Marcos
Project Name:	<i>Water Quality Monitoring of River Basins and Edwards Aquifer Recharge Zone</i>
Location of SEP:	Colorado River Basin; Edwards Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas State University – San Marcos** for the *Water Quality Monitoring of River Basins and Edwards Aquifer Recharge Zone* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used pay for sampling equipment, including the portable stormwater sampler, Gore bags, and calibration standards kits. The Third-Party Administrator shall also use the SEP Offset Amount for travel expenses up to \$.55 per mile for traveling to the wells and to collect data during storm events. The SEP Offset Amount will also be used for lab analyses of Gore bag samples and field parameters and to pay a portion of the Third-Party’s personnel’s salary for time spent collecting samples and calibrating instruments. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

City of San Marcos
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The continuation of the Trimmier, Witte, and La Coste Stations and the implementation of two new stations will provide valuable data for assessing water quality. Continuous monitoring of these sites will provide the public with knowledge of basic water quality in their watershed. These data will provide useful information in determining baseline conditions, long term trends, and real-time water quality for the area.

The Edwards Aquifer monitoring sites will collect data to measure the water quality of the sensitive area before, during, and after construction of the Paso Robles development and associated golf course. The Project will also monitor the surface runoff following significant rain events to determine the effects of construction activities, the use of effluent, and the application of insecticides and herbicides in the community and golf course. Further, these monitoring sites will identify any contamination of this sensitive recharge area of the Edwards Aquifer Recharge Zone and help prevent possible further introduction of contaminants.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas State University – San Marcos SEP** and shall mail the contribution with a copy of the Agreed Order to:

Dr. Glenn Longley
Texas State University - San Marcos
601 University Drive, JCK 420
San Marcos, Texas 78666

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.